



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
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September 11, 2023

**BY ECF**

Honorable Ona T. Wang  
United States Magistrate Judge  
United States District Court  
500 Pearl Street  
New York, NY 10007

Re: *Patricia Rodney v City of New York, et al.*, 22-CV-01445 (LAK) (OTW)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to the defense of the above-referenced case. In that capacity and for the reasons set forth below, I write to respectfully request that: (1) the Court accept Defendants' original Reply, filed at Docket Entry 64, as their Reply in further support of the Motion to Dismiss Plaintiff's Second Amended Complaint; (2) Defendants Ramos, Oggeri, Mui, Cusomano, and Vitelli be joined as part of Defendants' Motion to Dismiss at Docket Entry Nos. 97; and (3) that the Court *sua sponte* extend the time for Defendants Casimir and Ernest Hernandez to respond to the Second Amended Complaint until September 25, 2023. (*See* Docket Entry No. 120-121).

**Defendants' Reply in Support of Defendants' Motion to Dismiss:**

As Your Honor is aware, on July 14, 2023 (Docket Entry No. 97), Defendants filed a letter indicating that, given that Plaintiff's Second Amended Complaint did not change substantively from the First Amended Complaint, Defendants were renewing their original Motion to Dismiss, which was filed at Docket Entry Nos. 39-41. On August 18, 2023, Plaintiff filed her opposition to Defendants' Motion to Dismiss the Second Amended Complaint. (Docket Entry Nos. 113) Currently, Defendants' Reply in further support of their Motion to Dismiss is due today. Given that Plaintiff's Opposition did not substantively differ from their original opposition, Defendants respectfully request that the Court accept Defendants' original Reply, filed at Docket Entry 64, as their Reply in further support of the Motion to Dismiss Plaintiff's Second Amended Complaint.

**Defendants Ramos, Oggeri, Mui, Cusomano, and Vitelli be Incorporated in Defendants' Motion to Dismiss**

As Your Honor likely recalls, the Court granted Defendants an extension of time, until September 8, 2023, to respond to the Second Amended Complaint. (*See* Docket Entry No. 119). As of this writing, this Office has resolved representation with, and now represents, Police Officers John Ramos, Michael Oggeri, Robert Mui, Johnandrew Cusmano, and Steven Vitelli. As such, it is respectfully requested that the foregoing Individual Defendants be incorporated into the Defendants' Motion to Dismiss the Second Amended Complaint (Docket Entry Nos. 90, 97) and the instant Reply, as the same bases for Defendants' motion apply to these newly joined Defendants. Accordingly, it is respectfully requested that the Court therefore consider Defendants' Motion to Dismiss and the instant Reply as filed on behalf of all represented Defendants including Heriberto Hernandez, Tamara Clement, John Ramos, Robert Mui, Johnandrew Cusomano, Michael Oggeri, and Steven Vitelli and that such motion be considered their response to the Second Amended Complaint.

***Sua Sponte* Extension of Time to Respond to the Complaint for Defendants Casimir and Ernest Hernandez:**

Finally, this Office respectfully requests that the Court *sua sponte* extend the time, until September 25, 2023 for purported Defendants Casimir and Ernest Hernandez to respond to the Second Amended Complaint. The reason for this request is that due to a scheduling issue, the undersigned has not yet had an opportunity to meet with Officer Casimir and with respect to Officer Ernest Hernandez, this Office needs additional time to finalize representation with him. The undersigned apologizes for the delay but assures the Court that he has been working as expeditiously as possible to attempt to resolve these issues. The additional time should provide for sufficient time to resolve these issues.<sup>1</sup>

**Conclusion:**

For the reasons set forth above, Defendants respectfully request that: (1) the Court accept Defendants' original Reply, filed at Docket Entry 64, as their Reply in further support of the Motion to Dismiss Plaintiff's Second Amended Complaint; (2) that Defendants John Ramos, Robert Mui, Johnandrew Cusoman, Michael Oggeri, and Steven Vitelli be joined as part of Defendants' Motion to Dismiss at Docket Entry Nos. 97; and (3) that the Court *sua sponte* extend the time for Defendant Ernest Hernandez, and Pelly Casimir to answer the amended complaint until September 25, 2023.

Defendants thank the Court for its consideration herein.

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<sup>1</sup> Upon information and belief, the only remaining purported individual defendant is Officer Acevedo; upon information and belief, Officer Acevedo, has not served. Upon information and belief, Officer Acevedo is retired from the NYPD and therefore, the undersigned is attempting to obtain the proper service address for this officer and will provide same to plaintiff's counsel once it is obtained.

Respectfully submitted,

*/s/ Gregory Musso*

Gregory Musso  
*Senior Counsel*

cc: **By ECF**  
To all attorneys of record.